

US EPA ARCHIVE DOCUMENT

## **SESSION 1**

# **Shifting Thinking From the 2005 Goals to the 2008 Goals and Remedy Selection**

## **HIGHLIGHTS OF FLEXIBLE, STREAMLINED CORRECTIVE ACTION**

Donald Webster – EPA Region 4



## Agenda: Highlights of Flexible, Streamlined Corrective Action

- ▶ History of the Corrective Action Program
- ▶ RCRA Corrective Action Reforms
- ▶ Region 4 Government Performance and Results Act (GPRA) Goals Progress
- ▶ Approaches to Implementing Flexible, Streamlined Corrective Action
- ▶ One Cleanup Program



## Some History of the RCRA Corrective Action Program

- ▶ In 1998, the first GPRA Corrective Action Universe—the 2005 universe—was formed.
- ▶ In 1999, EPA came up with a program to improve the Subpart S corrective action process, it was called RCRA Reforms.
- ▶ Faster, Focused, and More Flexible Cleanups were the bywords and still are.

## More History of the RCRA Corrective Action Program

- ▶ RCRA Reforms I were implemented in 1999 and RCRA Reforms II were implemented in 2001.
- ▶ The first set of Reforms focused on the attainment of the two EIs.
- ▶ The second set of Reforms focused on cultural change and implementing flexible solutions to corrective action problems.



## Recent History of the Corrective Action Program

- ▶ In 2003, Marianne Horinko announced the 'One Cleanup Program'.
- ▶ In 2005, things began to Snowball.
- ▶ The 2005 universes were almost finished.
- ▶ The 2006 Permit universe was started.
- ▶ The 2008 Corrective Action universe was developed.
- ▶ The 2020 Corrective Action universe was discussed.
- ▶ And here we are today!

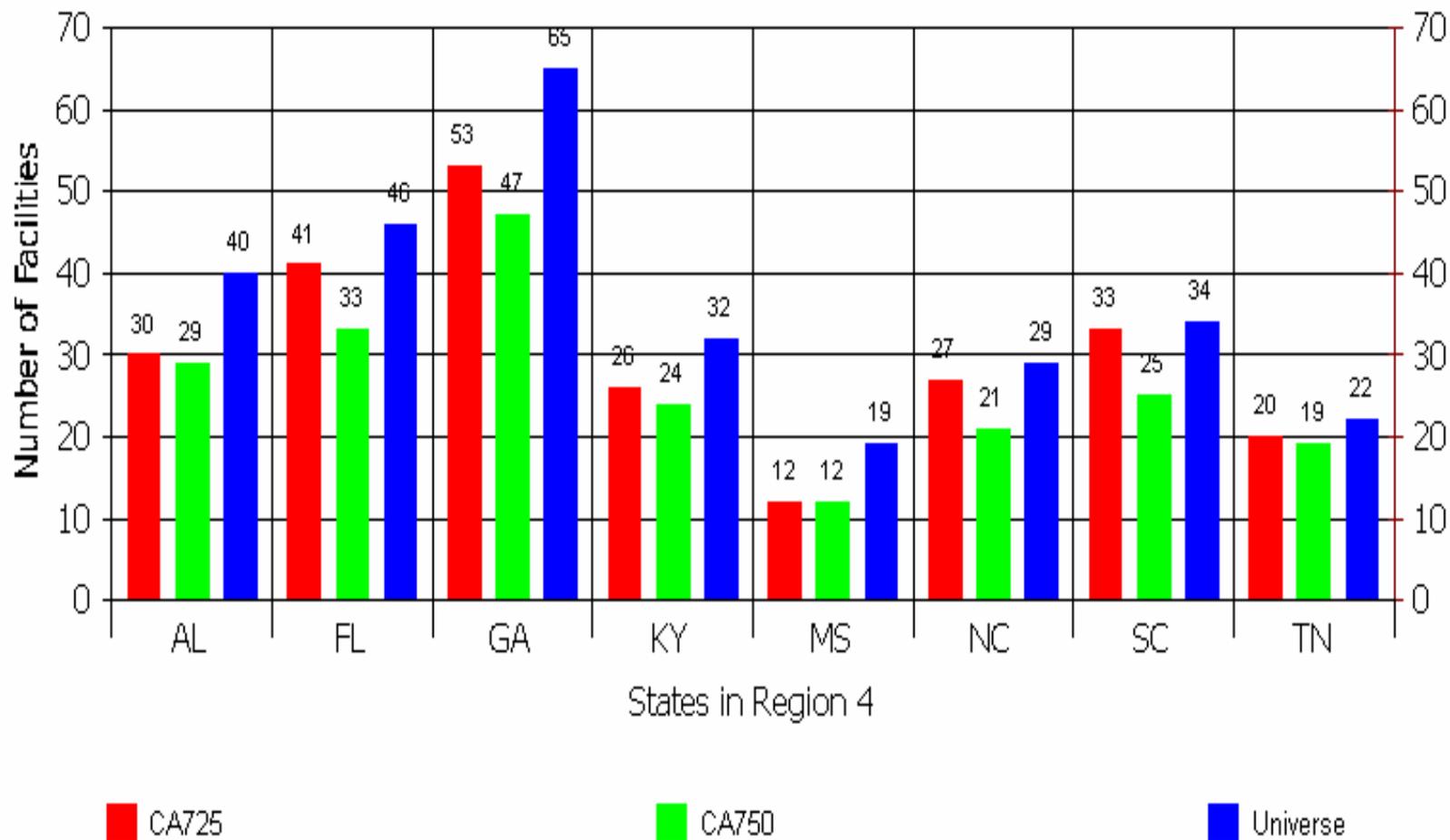


## The 2005 Goals for Corrective Action, set around 1999, were:

- ▶ 95% Human Exposures Under Control [CA725] – 31 Left for Region 4
- ▶ 70% of Contaminated Groundwater Migration Under Control [CA750] – Achieved
- ▶ 100% Site Assessment – Achieved



# Since 1999 we have Concentrated on CA725 and CA750 EIs



## The Absolute Goal of RCRA Corrective Action is Final Cleanup

- ▶ The Agency is moving from short and intermediate term measures to long term measures of success in the RCRA Program.
- ▶ 2008 may be the last year that Human Exposure (CA725) and Groundwater Migration (CA750) are used as EIs.
- ▶ In the Future, Remedy Selected (CA400) and Remedy Constructed (CA550) will be the EIs measures of long term progress.



## What have we learned since 1999?

- ▶ Many HSWA permits in Region 4 ended after 2000, and were renewed for the first time.
- ▶ We learned that EPA and States no longer need to issue strict Subpart S permits, we can change our permits.
- ▶ We can make our permits more flexible and streamlined.
- ▶ Permits can be Performance Based.

## What is a Performance Based Permit or Agreement?

- ▶ Performance Based Permits are based on EPA guidance entitled:  
*“Results Based Approaches and Tailored Oversight Guidance, September, 2003.”*
- ▶ Traces its origin to the advanced notice of public rulemaking (ANPR) of 1996
- ▶ A Performance Agreement is a document that may supplement a permit
- ▶ A Performance Based Permit may take the place of a Subpart S Permit



## When is a Performance Agreement Appropriate?

- ▶ The facility has a good compliance record
- ▶ Stakeholder involvement is high and/or there is good public outreach by the facility
- ▶ The facility has demonstrated good technical ability
- ▶ The facility has a willingness to pursue the Corrective Action process to the end



## What are the Benefits of a Performance Agreement?

- ▶ Provides a high level of certainty to EPA and the facility because performance standards, Corrective Action objectives and shareholder responsibilities are clearly laid out
- ▶ Reduces administrative burden
- ▶ Saves cost for both parties
- ▶ Will lead to faster cleanup results



## There are Several Types of Results Based Approaches

- ▶ Tailored Oversight – elimination of administrative and/or technical steps
- ▶ Holistic Approach – ‘the Big Picture’, pretty much what we do when we address Corrective Action at ‘the entire facility’
- ▶ Procedural Flexibility – change the step by step Subpart S type process
- ▶ Performance Standards – EPA determines standards, facility determines how they will be met (Chevron/Texaco Pascagoula)
- ▶ Targeted (or Focused) Data Collection – use of a conceptual site model and data quality objectives to identify data needs (an RFI supplement)

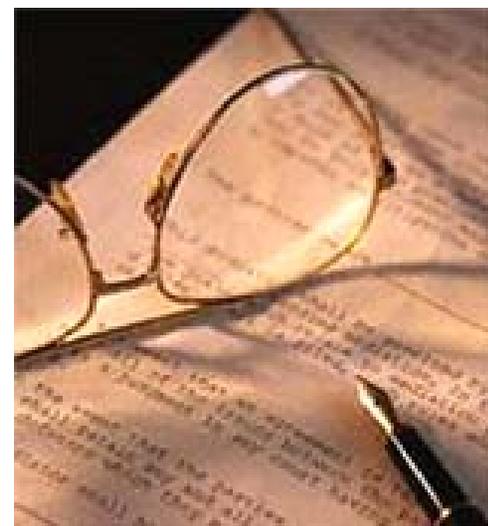
## Chevron/Texaco, Pascagoula has a Performance Agreement (PA)

- ▶ The PA outlines the intent of the facility to take appropriate Corrective Action.
- ▶ The PA has performance standards for air, soil, surface water, groundwater and sediments.
- ▶ The PA is part of the remedy and part of the Permit and may eventually replace the Permit.



## More Results-Oriented Streamlined Approaches:

- ▶ Facility-Lead Corrective Action Projects and Voluntary Agreements
- ▶ Streamlined Consent Orders/ Streamlining Existing Permits and Orders
- ▶ Institutional Controls



## Why Performance Based Permits and Flexible, Streamlined Approaches?

- ▶ Because we are all Subpart S junkies.
- ▶ I was spoon fed Subpart S in my early years, and I was addicted to the rigid, heavy, burdensome process because it made me feel warm and safe inside.
- ▶ Had it not been for some patient managers at Region 4, I would still be wallowing in the slough of Subpart S despair.

## How to Get Out of the Slough of Subpart S Despair

- ▶ Think positive
- ▶ Put away your ego
- ▶ Go see your oversight tailor
- ▶ Practice the three C's: commitment, cooperation and communication
- ▶ Grab your bootstraps and pull!



## The Three C's Make Streamlined Approaches Work

Results-Oriented Streamlined Approaches to Corrective Action can only be successful if they are founded on the 3 C's:

- ▶ Commitment
- ▶ Cooperation
- ▶ Communication



## Commitment

- ▶ Commitment - A pledge or promise to do something
- ▶ For a Corrective Action project to be successful, all parties must be committed to proper clean up of contaminated areas at a facility



## Why Be Committed to Working Together Towards Proper Clean Up of a Facility?

- ▶ Facilities have a legislative and regulatory responsibility to clean up contaminated areas. They also need to have regulatory approval of their actions.
- ▶ Investigation/remediation efforts under RCRA Corrective Action are carried out by the facility. Thus, regulators must be committed to working with a facility to get Corrective Action carried out if they are indeed wanting to protect the environment.



## Cooperation

- ▶ Cooperation - Working together towards a common goal
- ▶ Establish a “team-like” atmosphere
- ▶ Key components of a successful team include:
  - Commitment
  - Good and frequent communication
  - Respect
  - Trust



## Cooperation—Respect

- ▶ Respect – Being considerate and courteous towards a person; holding a person in high regard.
- ▶ If you feel that you deserve respect, then you need to also respect others.
- ▶ Remember, the person sitting on the other side of the table has pressures, family, and problems just like you. They also have an interest in the environment or they wouldn't be working on this project.



## Cooperation—Trust

- ▶ Trust – a firm belief or confidence in a person’s integrity, honesty, character, reliability, ability, and strengths.
- ▶ Typically is earned, based on experience.
- ▶ If trust must be earned, then so should distrust.
- ▶ If you lose someone’s trust, it is hard to get it back again.



## Communication

- ▶ Communication – the exchange of ideas, messages, and information by speech, signals, or writing
- ▶ Generally broken down into oral or written
- ▶ Can also be broken down into formal and informal
  - Oral typically corresponds to informal communication
  - Written typically corresponds to formal communication



## Why am I telling you all this?

- ▶ Because Results-Based Corrective Action is not just about Orders, Permits, and Agreements.
- ▶ It's about the government and industry working together with respect, to reach a final Corrective Action goal.
- ▶ It's about cooperation, communication, and program consistency.

## How to Handle Conflicts Between Regulator and Regulated

- ▶ You can't always control what happens, but you can control how you deal with it.
- ▶ Accept and assess the situation
- ▶ Focus on areas of agreement
- ▶ Negotiate, cooperate, comprise
- ▶ Think "win/win"
- ▶ Be as open as you can



## How to Handle Conflicts (cont.)

- ▶ Don't quit at the first sign of discord/trouble.
- ▶ Try to bring the team concept back by moving away from an adversarial role.
- ▶ Work to persuade the person that it is in their best interest to overcome the obstacle and properly remediate the facility.
- ▶ Be tough on facts, but go easy on people.



## Looking back, have we improved any since 1999?

- ▶ Sure we have. We are kinder, gentler people today.
- ▶ There is a great diversity of approaches to streamlining the corrective action process.
- ▶ Many of these have been developed since the RCRA Reforms were put in place. I have only discussed a few of these.

